

AN ACT

RELATING TO FAMILY LAW; EXPANDING THE CONSIDERATIONS FOR THE COURT WHEN A GRANDPARENT PETITIONS FOR VISITATION WITH A CHILD; AMENDING A SECTION OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 40-9-2 NMSA 1978 (being Laws 1993, Chapter 93, Section 3) is amended to read:

"40-9-2. CHILDREN--VISITATION BY GRANDPARENT--
PETITION--MEDIATION.--

A. In rendering a judgment of dissolution of marriage, legal separation or the existence of the parent and child relationship pursuant to the provisions of the Uniform Parentage Act, or at any time after the entry of the judgment, the district court may grant reasonable visitation privileges to a grandparent of a minor child, not in conflict with the child's education or prior established visitation or time-sharing privileges.

B. If one or both parents of a minor child are deceased, any grandparent of the minor child may petition the district court for visitation privileges with respect to the minor. The district court may order temporary visitation privileges until a final order regarding visitation privileges is issued by the court.

C. If a minor child resided with a grandparent for a period of at least three months and the child was less than six years of age at the beginning of the three-month period and the child was subsequently removed from the grandparent's home by the child's parent or any other person, the grandparent may petition the district court for

visitation privileges with respect to the child, if the child's home state is New Mexico, as provided in the Child Custody Jurisdiction Act.

D. If a minor child resided with a grandparent for a period of at least six months and the child was six years of age or older at the beginning of the six-month period and the child was subsequently removed from the grandparent's home by the child's parent or any other person, the grandparent may petition the district court for visitation privileges with respect to the child, if the child's home state is New Mexico, as provided in the Child Custody Jurisdiction Act.

E. A biological grandparent may petition the district court for visitation privileges with respect to a grandchild when the grandchild has been adopted or adoption is sought, pursuant to the provisions of the Adoption Act, by:

- (1) a stepparent;
- (2) a relative of the grandchild;
- (3) a person designated to care for the grandchild in the provisions of a deceased parent's will; or
- (4) a person who sponsored the grandchild at a baptism or confirmation conducted by a recognized religious organization.

F. When a minor child is adopted by a stepparent and the parental rights of the natural parent terminate or are relinquished, the biological grandparents are not precluded from attempting to establish visitation privileges. When a petition filed pursuant to the provisions of the Grandparent's Visitation Privileges Act is

filed during the pendency of an adoption proceeding, the petition shall be filed as part of the adoption proceedings. The provisions of the Grandparent's Visitation Privileges Act shall have no application in the event of a relinquishment or termination of parental rights in cases of other statutory adoption proceedings.

G. When considering a grandparent's petition for visitation privileges with a child, the district court shall assess:

- (1) any factors relevant to the best interests of the child;
- (2) the prior interaction between the grandparent and the child;
- (3) the prior interaction between the grandparent and each parent of the child;
- (4) the present relationship between the grandparent and each parent of the child;
- (5) time-sharing or visitation arrangements that were in place prior to filing of the petition;
- (6) the effect the visitation with the grandparent will have on the child;
- (7) if the grandparent has any prior convictions for physical, emotional or sexual abuse or neglect; and
- (8) if the grandparent has previously been a full-time caretaker for the child for a significant period.

H. The district court may order mediation and evaluation in any matter when a grandparent's visitation privileges with respect to a minor child are at issue. When

